

AMENDED IN ASSEMBLY MAY 23, 2002

AMENDED IN ASSEMBLY APRIL 8, 2002

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 2496

Introduced by Assembly Member Steinberg

February 21, 2002

An act to amend Sections 210.1 and 737 of, and to add Section 737.1 to, the Welfare and Institutions Code, relating to juvenile courts.

LEGISLATIVE COUNSEL'S DIGEST

AB 2496, as amended, Steinberg. Juvenile courts.

(1) Existing law requires the Board of Corrections to develop guidelines for the operation and maintenance of nonsecure placement facilities for persons alleged or adjudged as wards of the juvenile court, as specified.

This bill would require the board to collect and maintain information from specified counties regarding the placement of minors awaiting transfer to a nonsecure out-of-home placement and the implementation of placement action plans, as specified. The bill would require those counties to provide specified information to the board in relation to those placements and the implementation of those plans.

(2) Existing law, ~~in connection with a minor~~ *authorizes a court to order that a person who has been adjudged a ward of the juvenile court, provides for detaining the ward prior to be detained in a detention home or, if the ward is 18 years of age or older, in a county jail, until the execution of an order of commitment or any other disposition.* Existing law requires that the court periodically review, as specified, any case in

which a minor has been detained for more than 15 days, pending the execution of an order or commitment or other disposition, and inquire into the delay.

This bill would *instead authorize the court to order a person who has been adjudged a ward of the juvenile court on the basis of criminal conduct, as specified, to be detained in the juvenile hall, or, if the ward is 18 years of age or older, in a county jail. The bill would require that the court periodically review any case in which a minor has been detained for 15 days, pending the execution of an order of commitment or other disposition, or has been detained for 15 days after being returned from a nonsecure out-of-home placement, and inquire into the delay. The bill would require that the minor, the minor's counsel, and a probation officer personally appear before the court during each periodic review of the minor's detention upon the request of the minor or the minor's counsel, as specified. The bill would provide to the court, upon a finding that the delay is unreasonable, the authority to order the appropriate party to take any action to execute the order, and permit the court to release the minor to specified persons or entities pending execution. The bill would further authorize the court, upon a finding that placement of a minor is unlikely to occur within 5 days, to order the respective probation officer to prepare and implement an individual placement acceleration plan, as specified. The bill would require, after a delay of 30 days, that the minor be removed from detention and returned to his or her home or transferred to another specified placement pending execution of the order of commitment or other disposition, except under specified circumstances.*

This bill would also require the Board of Corrections to notify a county whenever it is not in compliance with the placement overload standard for county juvenile halls, as defined. The bill would require a notified county, within 90 days of receipt of the notice, to prepare and submit a placement action plan for implementation, as specified, to the board.

By imposing additional duties on local employees, this bill would constitute a state-mandated local program.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide



and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. It is the intent of the Legislature that minors
2 adjudicated as wards of the juvenile court under Section 601 or 602
3 of the Welfare and Institutions Code who receive an order or
4 disposition of placement in a foster home, community care facility,
5 or other nonsecure out-of-home placement, shall be moved swiftly
6 and expeditiously into placement without a prolonged stay in any
7 secure juvenile detention facility. It is further the intent of the
8 Legislature to encourage and assist counties in the adoption of
9 policies, procedures, and programs, including alternative
10 residential programs, that may reduce postdispositional delays in
11 moving wards from secure juvenile facilities to nonsecure
12 placements, as ordered by the juvenile court.

13 SEC. 2. Section 210.1 of the Welfare and Institutions Code is
14 amended to read:

15 210.1. (a) The Board of Corrections shall develop guidelines
16 for the operation and maintenance of nonsecure placement
17 facilities for persons alleged or found to be persons coming within
18 the terms of Section 601 or 602.

19 (b) The Board of Corrections shall collect and maintain
20 information, from every county that has a juvenile hall, regarding
21 minors who are detained in postdispositional custody awaiting
22 transfer to a nonsecure placement or replacement, including
23 information on the length of stay in detention of those minors, in
24 order to monitor county compliance with the requirements of
25 Section 737.1. Each county probation department shall provide
26 the board with information, reports, or plans as deemed
27 appropriate by the board for purposes of implementing the
28 provisions of Section 737.1.



SEC. 3. Section 737 of the Welfare and Institutions Code is amended to read:

737. (a) Whenever a person has been adjudged a ward of the juvenile court under Section 601 or 602, and has been committed or otherwise disposed of as provided in this chapter for the care of wards of the juvenile court, the court may order that the ward be detained in the juvenile hall, or in the case of a ward of the age of 18 years or more, in the county jail or as the court deems fit, until the execution of the order of commitment or any other disposition.

(b) In any case in which a minor is detained for 15 days pending the execution of the order of commitment or any other disposition, or in any case in which the minor is detained for 15 days after being returned from a nonsecure out-of-home placement, the court shall periodically review the case to determine whether the delay is reasonable. These periodic reviews shall be held at least every 15 days, commencing from the time the minor was initially detained pending the execution of the order of commitment or of any other disposition, or from the time the minor was detained after being returned from a nonsecure out-of-home placement. During the course of each review, the court shall inquire regarding the action taken by the probation department to carry out its order, the reasons for the delay, and the effect of the delay upon the minor. ~~The minor, the minor's counsel, and a probation officer shall appear personally before the court during each periodic review. If the court determines at the review that the delay is unreasonable, it shall order the probation department, or any other agency or provider that is a party to the proceeding, to take any action as may be deemed appropriate by the court for the swift and fair execution of the dispositional order. The court may also order that the minor be released to the custody of a parent or responsible relative, or to a foster home or other licensed residential care facility, pending execution of the court's order of commitment or disposition. If the minor has an order of commitment or disposition to be placed in a foster home, community care facility, or other nonsecure out-of-home placement, or if the minor has been returned to the juvenile hall from a foster home, community care facility, or other nonsecure out-of-home placement, then, upon the request of the minor or the minor's counsel, the minor, the minor's counsel, and the probation officer shall personally appear before the court at the periodic review.~~

(c) (1) In any case in which a detained minor has an order of commitment or disposition to be placed in a foster home, community care facility, or other nonsecure out-of-home placement, or in any case in which the minor is detained after being returned from a nonsecure out-of-home placement, and a periodic review is conducted by the court, as required by subdivision (b), the court shall require the probation officer to report at the first periodic review on the efforts made to implement the case plan required by Section 706.6, including an explanation for any delay in locating an appropriate placement or in transferring the minor to placement. If it appears to the court at the periodic review that the minor is unlikely to be transferred to another suitable placement within the next five days, and continues to be detained, the court shall order the probation officer to prepare and implement an individual placement acceleration plan for the minor. The plan shall be submitted to the minor's counsel and to the court within five days of the periodic review and shall include the following:

(A) A copy of the case plan prepared under Section 706.6.

(B) A listing of the foster care or placement providers who were contacted in attempting to place the minor, and a summary of their responses as to the attempt.

(C) A summary of the obstacles or problems that are responsible for the delay in moving the minor to placement.

(D) A summary of the steps to be taken by the probation department to successfully implement the court's order of placement within the next 10 days.

(2) The placement acceleration plan, with any modification ordered by the juvenile court, shall immediately be implemented by the probation department.

(3) *If the case plan required by Sections 706.5 and 706.6 was not prepared and submitted to the court by the time of the disposition hearing because placement in foster care was not recommended by the probation officer, the provisions of paragraph (1) of this subdivision shall apply at the second 15-day review hearing rather than at the first review hearing in order that the probation officer may have time to prepare and submit the appropriate case plan to the court. When the minor is continued in detention under these circumstances, the case plan shall be submitted to the court prior to the second 15-day review hearing,*

1 *and the court and the probation officer shall thereafter observe the*
2 *requirements of paragraphs (1) and (2) of this subdivision in*
3 *regard to placement acceleration plans in the same manner as*
4 *otherwise required for minors whose case plans were available to*
5 *the court at the disposition hearing.*

6 (d) *Subject to the provisions of subdivision (e), if the minor*
7 *is detained and the order of commitment or disposition to place the*
8 *minor in a foster home, community care facility, or other*
9 *nonsecure out-of-home placement, has not been executed within*
10 *30 days of having been made, or if a minor has been detained for*
11 *30 days after being returned to the probation department from a*
12 *foster home, community care facility, or other nonsecure*
13 *out-of-home placement, the minor shall be removed from*
14 *detention and returned to the home of his or her parents or the home*
15 *of a responsible relative, or transferred to an appropriate foster*
16 *home, nonsecure shelter, or licensed residential care facility,*
17 *pending execution of the order of commitment or other disposition*
18 *or pending replacement.*

19 (e) *In extraordinary cases, if the court finds, based on evidence*
20 *presented at a periodic review hearing at which the minor and*
21 *minor's counsel are present, that removal from the secure detention*
22 *facility as required by subdivision (d) would constitute a serious*
23 *and substantial risk of physical or mental harm to the minor, the*
24 *court may extend the period of secure detention in the juvenile hall*
25 *only for the period of time reasonably necessary to achieve the*
26 *transfer of the minor to an appropriate nonsecure placement that*
27 *is consistent with the court's dispositional order in the case. The*
28 *court shall make its finding on the record, including the nature of*
29 *the risk presented and the other relevant reasons for continuing*
30 *secure detention beyond the 30-day limit stated in subdivision (d).*
31 *If the period of detention is extended under this subdivision, at*
32 *each subsequent periodic review hearing the minor and the*
33 *minor's counsel may appear personally, the probation officer shall*
34 *appear and report on efforts and the progress made in regard to*
35 *placement of the minor, and the minor shall be removed from*
36 *detention in accordance with subdivision (d), unless the court finds*
37 *again, and notes on the record its reasons for so finding, that*
38 *removal from secure detention would constitute a serious and*
39 *substantial risk of physical or mental harm to the minor.*

SEC. 4. Section 737.1 is added to the Welfare and Institutions Code, to read:

737.1. (a) The Board of Corrections shall make a determination as to whether a county is out of compliance with the placement overload standard for county juvenile halls, as described in subdivision (b), and shall notify the county of its noncompliance with that standard. Within 90 days of having received notice from the board, that county shall prepare and submit to the board a placement action plan, as described in subdivision (c). The purpose of the placement action plan is to guide and accelerate the movement of minors from secure detention facilities to appropriate nonsecure out-of-home placements, and correspondingly, to reduce unnecessary stays in secure detention facilities for those minors with orders of placement in nonsecure facilities.

(b) A county shall be considered out of compliance with the placement overload standard if the average length of stay in postdispositional secure detention for any Section 601 or 602 ward with an order of placement in a foster home, community care facility, or other nonsecure out-of-home placement, including a minor who is returned to detention from a nonsecure out-of-home placement, exceeds 20 days for any six months in any calendar year.

For purposes of this subdivision, the length of stay for each case included in the monthly average length of stay calculation shall be measured from the day that the dispositional order of placement was made until the day the minor was physically moved to a placement that was consistent with the dispositional order of the juvenile court, or from the day that the minor was returned from a nonsecure out-of-home placement until the day the minor was delivered to another nonsecure out-of-home placement. Only minors who are detained in the juvenile hall pending execution of the order of placement or replacement shall be included in the calculation of the average length of stay in postdispositional secure detention.

(c) The placement action plan required by subdivision (a) shall include the following:

(1) An analysis of the obstacles or causes of delay in moving Section 601 or 602 wards from detention to placement, including, but not limited to, the availability and variety of placements,

1 economic factors affecting placement delays, and the efficiency of
2 local placement procedures.

3 (2) A description of the changes in case processing that are
4 likely to reduce detention stays for placement-bound Section 601
5 or 602 wards, including, but not limited to:

6 (A) The implementation of policies and procedures to begin
7 placement efforts earlier in the court process, including
8 collaborative efforts by attorneys, probation officers, and the
9 court, to agree on viable placement or treatment options, and to
10 initiate the search for an appropriate placement at the earliest
11 possible stage in the court process.

12 (B) Policies to reduce delays in the preparation and transfer of
13 case records or reports necessary to achieve placement.

14 (C) Assignment of additional personnel to the placement unit
15 or other probation entity responsible for locating appropriate
16 placements for Section 601 or 602 wards.

17 (D) Establishment of local time limits on detention or case
18 processing activities relating to minors who are detained pending
19 placement.

20 (3) An analysis of the contracts or agreements between the
21 probation department and private residential care providers,
22 including analysis of the protocols for the acceptance of minors
23 referred by the department, for the prevention of rejections or
24 returns of placed minors to the department, and to secure detention
25 in the juvenile hall.

26 (4) An analysis of the need, if any, for additional residential
27 care facilities for Section 601 or 602 wards in the county, including
28 the need for providers or placements that offer treatment in
29 specialized areas, such as drug and alcohol abuse, sexual offender
30 treatment, or mental health treatment.

31 (5) An analysis of the need, if any, for temporary residential
32 care facilities or community-based services, including mental
33 health services as alternatives to secure detention for minors who
34 are returned from private placements and for minors who are held
35 in juvenile hall in postdispositional confinement awaiting transfer
36 to a court-ordered nonsecure placement.

37 (6) A plan for the financing and development of any additional
38 residential care capacity, as identified under paragraphs (4) or (5).



1 (7) A prioritization of the strategies and solutions considered
2 by the county that would most likely reduce average waiting time
3 in detention for placement-bound minors.

4 (8) An implementation schedule for the strategies and solutions
5 selected by the county to reduce average detention waiting time for
6 placement-bound minors, including a designation of the agencies
7 or departments responsible for specific elements of the placement
8 action plan.

9 (d) Upon approval of the placement action plan by the Board
10 of Corrections, with any modifications deemed advisable by the
11 board, the plan shall be implemented to the extent feasible by the
12 county. For purposes of implementing the county placement
13 action plan, the board shall provide technical assistance to the
14 county, to the extent feasible, in view of the resources available to
15 the board.

16 (e) If, after submission and approval by the Board of
17 Corrections of a placement action plan in any calendar year, the
18 county again is out of compliance with the placement overload
19 standard for the following calendar year, the county shall prepare
20 and submit to the board a new and updated placement action plan
21 to indicate why the prior placement action plan has not succeeded,
22 and what additional steps the county will take to bring its juvenile
23 hall placement population into compliance. Under these
24 circumstances, the board shall continue to provide the county with
25 any technical assistance as is consistent with the board's resources.

26 SEC. 5. Notwithstanding Section 17610 of the Government
27 Code, if the Commission on State Mandates determines that this
28 act contains costs mandated by the state, reimbursement to local
29 agencies and school districts for those costs shall be made pursuant
30 to Part 7 (commencing with Section 17500) of Division 4 of Title
31 2 of the Government Code. If the statewide cost of the claim for
32 reimbursement does not exceed one million dollars (\$1,000,000),
33 reimbursement shall be made from the State Mandates Claims
34 Fund.

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